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Co-Lead Counsel for the Direct Purchaser Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: TFT-LCD (FLAT PANEL)
ANTITRUST LITIGATION

Case No. MDL 3:07-md-1827 SI

This Document Relates to:

ALL DIRECT PURCHASER CLASS ACTIONS

**DECLARATION OF ROBIN M. NIEMIEC
IN SUPPORT OF STATUS REPORT
REGARDING SECOND DISTRIBUTION
TO DIRECT PURCHASER CLASS
MEMBERS**

Date: May 23, 2014
Time: 9:00 a.m.
Courtroom: 10, 19th Floor

The Honorable Susan Illston

Robin M. Niemiec, declares and states that:

1. I am a Client Services Director for Rust Consulting, Inc. ("Rust"). I am over 21 years of age and am not a party to this action. I have personal knowledge of the facts set forth herein, and if called as a witness, could and would testify competently hereto.

2. I submit this Declaration in order to provide the Court and the parties to the above-captioned litigation (the “Action”) with information regarding the status of the Second Distribution.

1 3. Pursuant to the Order Regarding Payment of Late-Filed and Disputed Claims
 2 ("September 3 Order") and the Order Approving Second Distribution of Settlement Funds to the
 3 Direct Purchaser Class Members ("January 13 Order"), on February 14, 2014, Rust issued
 4 payments, totaling \$58,805,805.43, to 222 claimants who had funds held back in the initial
 5 distribution and Court approved claims.

6 4. At the request of Class Counsel, \$2,500.00 of the remaining Settlement Fund was
 7 not distributed in the Second Distribution to account for any additional costs and/or expenses.

8 5. Pursuant to the January 13 Order, checks issued by Rust for the Second
 9 Distribution had the notation "Non-Negotiable after 28 days" and no check issued was negotiated
 10 more than 45 days after the date of the check.

11 6. Rust re-issued checks to Settlement Class Members who contacted Rust and
 12 requested their checks be reissued.

13 7. Beginning on February 27, 2014, for any checks that remained uncashed, Rust
 14 began an outreach program, via telephone and email, to encourage claimants to cash their checks.

15 8. Rust continued their outreach program until all checks had been negotiated.

16 9. Class Counsel contacted Rust on March 12, 2014 to advise that ASA Electronics,
 17 LLC ("ASA") had contacted them on March 11, 2014 requesting information on a claim it
 18 submitted. Rust, in response, advised Class Counsel of the claim form filed by ASA which was
 19 considered ineligible. Prior to March 12, 2014, Rust did not advise Class Counsel of the
 20 existence of this late claim nor provide any documentation to Class Counsel related thereto.

21 (a) On September 9, 2013, Rust received a claim form and accompanying
 22 declaration from ASA. The ASA claim form was processed as late and ineligible for
 23 payment.

24 (b) The ASA claim form was filed approximately eighteen months after the
 25 Claim Form filing deadline and a month and a half after the initial distribution of payment
 26 to the Class. On May 28, 2013, Class Counsel filed a Motion requesting an order to
 27 distribute and the Court's direction regarding late and disputed claims, which was
 28 approved by the Court on July 12, 2013 with no objections. In the July 12 Order, the

1 Court also ruled that previously filed late claims would be required to submit a declaration
 2 under oath in support of the late claim in order to receive payment. The deadline to file a
 3 declaration in support of a late filed claim was August 12, 2013. On August 26, 2013,
 4 Class Counsel filed a status report with the Court regarding previously filed late or
 5 disputed claims and on September 5, 2013, the Court entered an order approving
 6 payments for the late filed and approved disputed claims.

7 (c) Since ASA's claim was not received until September 9, 2013, it was not
 8 submitted to the Court with the other previous late and disputed claims in May 2013.
 9 And since Class Counsel was not made aware of this late claim until March 11, 2014,
 10 neither was it included in the Motion For An Order Approving Second Distribution Of
 11 Settlement Funds filed on November 27, 2013 (Doc. No. 8807).

12 (d) In addition, ASA's claim was filed after the August 12, 2013 deadline to
 13 submit a declaration in support of a late claim.

14 (e) On March 26, 2014, Rust responded to ASA's inquiry and advised it nothing
 15 further could be done in regard to the claim as ASA's submission was past all applicable
 16 deadlines and all Settlement Funds have been distributed. During this communication
 17 with ASA, Rust reviewed claim information and identified a claim filed by Audiovox
 18 Corporation, which included purchases from the company's subsidiaries and affiliates, of
 19 which one was a company known as ASA. A portion of Audiovox's award was
 20 applicable to ASA, and therefore the relevant information was provided to it.

21 (f) Since March 26, 2014, Rust has received no further inquiries or
 22 communication from ASA, and accordingly, Rust considers this matter resolved.

23 10. As of April 4, 2014, \$2,500.05 remains in the distribution account which is the
 24 \$2,500.00 outlined in ¶ 4 above and \$.05 due to rounding.

25 11. Rust will disburse the remaining \$2,500.05 as designated by this Court and Class
 26 Counsel.

1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct to the best of my knowledge.

3 Executed this 14th day of April, 2014 in Palm Beach Gardens, Florida.

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